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April 9, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: *Petition of ACS Wireless for Extension of Waiver of 47 C.F.R. § 20.18(c) Requirements*
CC Docket No. 94-102

Dear Ms. Dortch:

On December 24, 2003, ACS Wireless, Inc. ("ACSW"), filed a petition with the Federal Communications Commission ("FCC" or "Commission") to extend the waiver of its TTY Access to 911 Services Rules set forth in 47 C.F.R. § 20.18(c) ("TTY Rules").¹ ACSW's petition contained two specific waiver requests: (1) a waiver of the TTY Rules until ACSW completed build-out of its CDMA network, and (2) a waiver to allow continued operation of its TDMA network without TTY 911 access capabilities until February 18, 2008 so that ACS could keep its analog network operational through the period required by the Commission's rules.² The undersigned, outside counsel to ACSW, received a status request from the Commission regarding ACSW's ongoing need for the waivers. This *ex parte* letter is intended to update the record in response to the Commission's status request.

Limited Waiver for CDMA Build-out

ACSW originally requested a waiver for its CDMA network due to some delays in deployment and the unique challenges of building a network in Alaska. ACSW has worked diligently and spent considerable funds to meet its CDMA build-out plans. ACSW's CDMA network now covers 135% of its TDMA/AMPS network and ACSW plans to continue to expand this network. ACSW had requested a limited waiver of the Commission's TTY Rules while it completed its buildout, which was scheduled to be completed by December 2005. This date has passed and its initial three phase CDMA build-out is complete. Thus, ACSW no longer requires a waiver from the Commission's TTY Rules for its CDMA network.

TDMA Waiver

In its 2003 Petition, ACSW requested a limited waiver to keep its TDMA network operational without a TTY 911 access solution until February 18, 2008 in order to comply with the Commission's analog sunset rule. ACSW's need for this limited waiver continues today.

¹ See Petition of ACS Wireless for Extension of Waiver of 47 C.F.R. § 20.18(c) Requirements, filed Dec. 24, 2003. ("Petition")

² ACSW operates a joint TDMA/Analog network.

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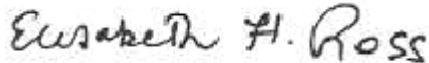
The Commission has recognized that in certain situations, such as when technology-related issues or other exceptional circumstances arise, the Commission may waive its rules.³ Generally, the Commission's rules may be waived for good cause shown.⁴ Further, waiver is appropriate if special circumstances warrant a deviation from the rules and such a deviation will serve the public interest.⁵ Special circumstances include unusual factual circumstances that make application of the rule(s) inequitable or unduly burdensome, or when an applicant for waiver has no reasonable alternative to enable compliance with the rule(s).⁶ As described more fully below, ACSW's request for waiver meets these standards.

As of March 7, 2007, ACSW had only 5,318 TDMA and 1,020 analog subscribers on its TDMA/Analog network. This represents just 4% and 0.7% respectively, of ACSW's total subscriber base, an even smaller proportion of subscribers than in December, 2003. Also, because the CDMA network now extends to areas covered by the TDMA/Analog network, customers can use TTY devices on the CDMA network for full emergency coverage. Considering the limited number of TDMA/AMPS customers, the extensive CDMA network that can accommodate TTY 911 access requirements, and the fast-approaching analog sunset date, a waiver is very much in the public interest. Therefore, ACSW still requires a limited waiver for its TDMA/AMPS network and respectfully requests the Commission grant such a waiver until February 18, 2008, the analog sunset date.

ACSW has invested heavily in its CDMA build-out in reliance of the *Analog Sunset Order*⁷ and has advocated strongly that the FCC should adhere to the analog sunset date.⁸ The sunset will end carriers' obligations to maintain costly and duplicative networks that are now obsolete.⁹ However, if the FCC extends the sunset date beyond February 18, 2008, ACSW may need to seek additional time for its TDMA waiver.

Please direct any questions to the undersigned. Thank you.

Sincerely,



Elisabeth H. Ross
Counsel for ACS Wireless, Inc.

³ See *Fourth Report and Order*, In the Matter of Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, 15 FCC Rcd. 25216 (December 28, 2000) ("*Fourth Report and Order*") at ¶ 43.

⁴ *Id.*; see also 47 C.F.R. § 1.3.

⁵ *Id.*

⁶ See 47 C.F.R. § 1.925(b)(3)(ii).

⁷ *Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting Cellular Radiotelephone Service and Other Commercial Mobile Radio Services*, Report and Order, FCC 02-229, (rel. Sept. 24, 2002) ("*Analog Sunset Order*").

⁸ See *ACS Wireless, Inc.'s Response to Public Notice Concerning Need for New Rules Extending Analog Sunset Date*, RM No. 11355, filed Jan. 19, 2007.

⁹ *Id.* at 3.